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Release copies to District

Date 5-1-97

Surname [REDACTED]

MAR 11 1997

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on June 30, 1995, under the [REDACTED] Your Articles of Incorporation states that your purposes are:

- (1) promoting the provision of appropriate professional care to patients admitted to or treated in any of the departments, facilities, or services of the [REDACTED] (hereinafter, the Hospital);
- (2) assisting the Hospital with the development and adoption of rules and regulations, policies, plans, and procedures relating to the provision of patient care at the Hospital;
- (3) providing mechanisms for the regular review, evaluation, and monitoring of medical staff practice and functions and patient care at the Hospital and recommending appropriate standards of patient care;
- (4) participating in Quality Assurance and Risk Management Programs of the Hospital;
- (5) developing and participating in a program of continuing medical education and research; and

(6) establishing a means of accounting to the Hospital for the quality of the professional services provided by your members.

Your Articles of Incorporation also state the following:

"It is intended that this Corporation shall have the status of a corporation that is exempt from federal income taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(6) of the Code. Notwithstanding any other provision herein, the Corporation shall not carry on any activities not permitted to be carried on by an organization exempt from federal income taxation under section 501(a) of the Code, as an organization described in section 501(c)(6) of the Code. These Articles shall be construed accordingly and all powers and activities of the Corporation shall be limited accordingly."

Your Articles of Incorporation also provide that upon your dissolution, your Board of Directors shall distribute all of your assets, after paying or making provision for your liabilities, "to such nonprofit organization or organizations as the Board of Directors shall determine."

Your bylaws provide that your membership shall consist of the following classes of physicians, dentists, and non-physician health professionals who hold clinical privileges to attend patients at the Hospital: the Active Staff (consisting of Attending Staff, Senior Attending Staff, and Emeritus Staff), the Courtesy Staff, the Consulting Staff, the Honorary Staff, and Provisional Status. Your bylaws provide, in general, that your members shall consist of medical and osteopathic physicians, dentists, and those non-physician health professionals who are legally qualified to practice in the District of Columbia, and whose competency and qualifications in their respective fields have been determined by your Credentials Committee and Executive Committee and approved by the Board of Directors of the Hospital. Your bylaws also provide that no health professional, including anyone in a medical administrative position by virtue of a contract with the Hospital, shall admit or provide medical or health-related services to patients in the Hospital unless the health professional is your member or has been granted temporary privileges in accordance with your procedures.

[REDACTED]

You state that your activities are carried out by the following committees specifically delineated in your bylaws:

- a. Executive Committee
- b. Credentials Committee
- c. Committee for Contract Professional Services
- d. Joint Conference Committee
- e. Faculty Advisory Committee
- f. Gynecology Committee
- g. Operating Room Committee
- h. Obstetrical Committee
- i. Bylaws Committee
- j. Hospital Privileges Review Committee
- k. Ambulatory Care Committee
- l. Cancer Committee
- m. Continuing Medical Education/Medical Library Committee
- n. Infection Control Committee
- o. Drug Usage--Pharmacy and Therapeutics Committee
- p. Medical Records Committee
- q. Perinatal Mortality and Morbidity Committee
- r. Research Evaluation Committee
- s. ASCU/Resuscitation Committee
- t. Utilization Management Committee

You state that in addition to activities carried out by the individual committees, many of your members also participate in various community activities such as community education, [REDACTED] medical advisory board for [REDACTED] health fairs, Visions, Race for the Cure, and an annual blood drive.

The financial information submitted with your application indicates that you expect that your financial support will consist solely of membership dues, contributions, and miscellaneous interest. You also indicate that approximately 45% of your expenses will be for an appreciation program for nonphysician health care providers and staff at the Hospital, approximately 40% will be for the annual golf/tennis fundraising events, and approximately 15% will be for meetings and administration. In your letter dated September 24, 1996, you explain that your appreciation program consists of giving small gifts on holidays (such as t-shirts, fanny packs, and canvas bags to each nurse employed by the Hospital, and turkeys and hams to every employee), gifts that are intended to thank the employees for their efforts in working with you and the Hospital. You also explain that the annual golf/tennis fundraising event is more properly classified as an annual recreation/social event for all your members, the Hospital administration, and members of the

[REDACTED]

Hospital's Board of Directors. You state that the activity involves an afternoon of tennis, a day of golf, and a dinner where trophies and awards are presented, and that although a fee is charged to those who attend, you subsidize the event.

You originally filed an application for recognition of exemption under section 501(c)(6) of the Code, Form 1024. In your letter dated September 24, 1996, you filed Form 1023, Application for Recognition of Exemption Under Section 501(c)(3). In a telephone conversation with your authorized representative, you indicated that you understood that filing Form 1023 superseded your filing Form 1024, and that your application under section 501(c)(6) would therefore no longer be considered.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. U.S., 326 U.S. 279 (1945), CT. D. 1650, C.B. 1945, 375, the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes." This rationale applies equally to any category of charitable purpose under section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose, for example, if, upon dissolution, such assets would by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of any exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private purpose.

Rev. Rul. 59-310, 1959-2 C.B. 146, holds that a nonprofit corporation organized for the purpose of establishing, maintaining and operating a public swimming pool, playground, and other recreation facilities for the children and other residents of a community is exempt from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 69-631, 1969-2 C.B. 119, holds that a nonprofit organization formed by a medical staff of an exempt hospital to carry on a charitable program of benefit to the hospital qualifies for exemption under section 501(c)(3) of the Code. The organization described provides scholarships and similar financial assistance to interns and residents during the course of their medical training, purchases new equipment for the hospital, and establishes various research grants. No part of the organization's funds is used for the private benefit of the members. The revenue ruling concludes that since all funds are used for these purposes, the organization serves a public interest, rather than the private interest of any of the members.

Although your purposes as stated in your Articles of Incorporation may have aspects that are charitable and educational, such purposes are broader than the purposes contemplated by section 501(c)(3) of the Code as your purposes are not limited to one or more exempt purposes. Moreover, your provision for a distribution of your assets in the event of dissolution is not limited to distribution for one or more exempt purposes, or to the federal, State, or local government for a public purpose, as is contemplated under section 1.501(c)(3)-1(b)(4) of the regulations, nor has information been submitted showing that such assets would, by operation of law, be distributed in the required manner. Therefore, you do not meet the organizational test requirements of section 1.501(c)(3)-1(b).

From the facts you have presented, it is clear that more than an insubstantial portion of your expenditures consist of providing gifts for employees of the Hospital. This activity is beyond the scope of a medical staff exempt under section 501(c)(3) of the Code as described in Rev. Rul. 69-631, supra. Also, your activity of providing an annual recreation/social event solely for Hospital administrators and personnel is not an exempt activity under section 501(c)(3) as explained in Rev. Rul. 59-310, supra, because it is not open to the community at large. These activities, while not your primary activities, are substantial in both a qualitative and quantitative sense, and thus prevent exemption under section 501(c)(3) as explained in Better Business Bureau v. U.S., supra.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the U.S. Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

[REDACTED]

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

Internal Revenue Service
[REDACTED]
Washington, D.C. 20224

Sincerely yours,

[REDACTED]
Chief, Exempt Organizations
Technical Branch 5

cc: Key DD, Southeast Region
Attn: EO Group

cc: [REDACTED]
[REDACTED]

[REDACTED]

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